

BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

Russell B. & Mary Sparrow,)	
)	DOCKET NO.: PT-1997-1
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal came on regularly for hearing on the 8th day of December, 1998, in the City of Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law. The taxpayer, represented by Russell Sparrow, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Jason Boggess, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of

said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Land only containing 13.23 acres in Lot 2,
Sec 8 T19N R2E, Cascade County, Montana.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$76,600 for the land and \$37,100 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board requesting a reduction in value to \$13,320 for the land and \$28,060 for the improvements.

5. The County Board adjusted the land value to \$44,631 and reduced the improvement value to \$28,030.

6. The taxpayer then appealed that decision to this Board concerning the land value only. The taxpayer requested land value was modified before this Board to \$14,961.

7. The DOR did not appeal the local board decision.

TAXPAYER'S CONTENTIONS

Mr. Sparrow presented his determination of value to be 9 acres of floodplain land at \$300 per acre, 3.23 acres at \$700 per acre, and the one acre homesite to be valued at \$10,000. The \$10,000 estimate for the one acre is arrived at

by Mr. Sparrow by "checking around" to see what is being paid for a homesite.

This property was the subject of an appeal in 1996. Mr. Sparrow indicated that he does not believe that the value has increased in one year. He explained that he was asking for a further reduction in value because he thought the 1996 decision was still a little high and he has reassessed the value.

Mr. Sparrow stated that the sales used by the DOR to establish the value for his land are not in the floodplain, and therefore, are not comparable to his land.

DOR CONTENTIONS

The DOR presented the 1996 land value model for land pricing in the subject area (Ex A). Mr. Boggess also introduced a copy of a map showing the location of the subject property and the comparable sales used in the land model (Ex B). Exhibit A contains sales of three properties, one of which has been sold twice representing a paired sale, for a total of four sales. Mr. Bogges stated that there are no sales in the immediate area of the subject. The sales that are on exhibit A are north of Cascade approximately nine to eleven miles south of the subject. These are the only sales that the DOR could find that are not located in a subdivision. The DOR applied these sales to the pricing of the subject because it also is

not located in a subdivision. This was done because subdivisions normally encounter development costs that would not be included in a parcel outside such a development. The size of the sales included on exhibit A are significantly smaller than the subject parcel.

Mr. Bogges stated the sales selected are all on the river, but without elevations from a survey it is difficult to determine whether or not they are impacted by the floodway or floodplain. He testified that it is hoped that a potential purchaser would investigate as to the build ability of a parcel before they were purchased.

The sales on exhibit A are the same sales that were used in establishing the value for the prior appraisal cycle.

The DOR did have new sales to include for the appraisal cycle that is based on January 1, 1996, and applied in tax year 1997.

Mr. Bogges stated that he is unaware how the value is treated if landowners bring a flooding problem to the attention of the DOR or are restricted by government to develop a parcel.

He stated that nobody is buying unbuildable sites and no one is selling them. The models are only developed based on the sales and individual characteristics are often not noted.

BOARD'S DISCUSSION

A review of the record of the hearing before the local board shows that the DOR presented a land value model

used to value this land that is different from the exhibit A presented in the hearing before this Board. Both are titled "1996 Land Value Modeling" for "neighborhood 062", and for the valuation date of "January 1, 1996." The document introduced before the local board (DOR Exhibit B) has one additional sale to those found on exhibit A, but otherwise the sales information is the same. The exhibits differ however, in the base size and the base rate, and vary in the regression output for the model. There is a difference in the calculation of monthly rate of change and the overall rate of change. This of course produces different numbers in the figures determined for the regressed value and the Computer Assisted Land Pricing (CALP) value of the sales contained in the model. These differences are enough to cast doubt on the resultant values derived from the model.

This Board made a determination of the amount of land subject to periodic flooding and addressed the value indication in its decision on the previous appeal PT-1996-24. There is nothing new raised by either party in this current appeal that would cause this Board to change that prior decision. In fact there appears to be more confusion as to how the value is actually determined. The sales included by the DOR in the model used to arrive at value are the same sales that were testified to in the 1996 appeal. It would seem that if nothing

else a time trend would assist in making the valuation determination, yet, here we see two separate models introduced that present even two differing amounts for that factor.

It is therefore the opinion of this Board that based on the record, the evidence and testimony presented that this appeal be granted in part and denied in part, and the decision of the local board be reversed. The amounts of land, and the values for those various amounts of acreage shall remain as determined in this Boards' decision PT-1996-24.

CONCLUSIONS OF LAW

1. **15-8-111. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2)(a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

2. Sparrow v. DOR, State Tax Appeal Board PT-1996-24.

//

//

//

//

//

//

//

//

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the assessor of that county at the 1997 tax year value of \$22,730 for the land as determined by this Board, and \$28,030 for the improvements as determined by the Cascade County Tax Appeal Board.

Dated this 3rd day of February, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. McKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.